

## Potential Conservative Concerns Regarding H.R. 3550, TEA-LU

*NOTE: The RSC has not taken a position on TEA-LU. It is expected that RSC Members will split on the issue of whether or not to support the bill. Because a great deal of information has been generated by a wide-variety of sources making arguments in favor of the bill, the RSC staff has compiled a list of potential areas of concern for some conservatives.*

**Cost:** While advertised at \$275 billion, the bill reported by the Committee actually would result in Guaranteed Obligations (i.e. guaranteed spending) of \$279.5 billion and would provide authorizations of \$283 billion.

Comparison of Funding Levels: (in billions of dollars)

	<u>TEA-21</u>	<u>Admin.</u>	<u>Senate</u>	<u>House</u>
Guaranteed Spending	211.7	239.0	301.1	279.5
Contract Authority & Transit	215.8	247.1	318.1	283.0

The \$275 billion figure cited for the House bill, excludes \$4 billion in mandatory funding that has historically been included within the totals and an additional \$4 billion in authorized, but not mandated spending.

The current bill is significantly above the level requested by the President and represents a 32% increase in funding as compared to TEA-21.

**Re-Opener Provision (Section 1124):** Provides that most of the funds provided in the bill may not be spent after September 30, 2005 UNLESS, legislation is enacted increasing the minimum guarantee amount to 92% in 2006 and increasing to 95% by 2009. Such legislation must not reduce the amount of funds any state received the prior year. This provision will require an increase in overall spending beyond the current levels in the bill. It is unclear whether or not this increase in spending would have to be funded via new taxes.

**Funds Not Targeted to Highway Improvements:** TEA-LU contains a number of new programs funded out of the Trust Fund that are not directly related to improving the Interstate Highway System. These include:

**Safe Routes to School Program (Section 1120(a)):** Creates a new \$1 billion program to enable and encourage children to walk and bicycle to school. Between 10% and 30% of the funds apportioned to a state are to be used for non-infrastructure projects such as public awareness campaigns. States are required to employ a full-time Safe Routes to School Coordinator out of the funds provided to the state. Davis-Bacon would apply to this new program.

**Nonmotorized Transportation Pilot Program (Section 1120(b)):** Creates a new \$145 million grant program to carry out a nonmotorized transportation (walking

and bicycling) pilot program in 4 communities. Davis-Bacon would appear to apply.

**Truck Parking Facilities (Section 1306):** Creates a new program funded at \$25 million to increase the availability of long-term parking for commercial trucks, including funding parking facilities adjacent to commercial truck stops.

**High Risk Rural Road Safety Improvements (Section 1403):** Creates a new program funded at \$675 million to cover 80% of the costs of construction of and improvements to rural roads with high accident rates.

**Work Zone Safety Grants (Section 1809):** Creates a new \$25 million program to make grants to non-profit organizations to provide training to prevent or reduce highway work zone injuries.

**Program to Prohibit Racial Profiling (Section 1810):** Creates a new \$60 million grant program for states that have enacted an anti-racial profiling law that meets certain requirements (including permitting public inspection of statistical information).

**Freight Intermodal Connectors (Section 1303):** Creates a new program funded at \$1.4 billion to fund up to 80% of the cost of projects to improve freight intermodal connectors (roadways that connect to a port, airport, truck-rail terminal or pipeline terminal).

These new programs are in addition to the continuation of existing programs that are largely unrelated to construction or reconstruction of highways or mass transit. The table below details funding for programs included in Highway Title of the bill, but not directly related to highway construction:

Recreational Trails Program	\$ 503 million
Safe Routes to Schools Program	\$1,000 million
Non-motorized Pilot Project	\$ 145 million
Rural Roads	\$ 645 million
511 Traveler Information Program	\$ 36 million
Truck Parking Facilities	\$ 25 million
Workzone Safety Grants	\$ 25 million
Racial Profiling Prevention	\$ 60 million
America's Byways Center	\$ 21 million
Freight Intermodal Connectors	\$1,365 million
<b>TOTAL</b>	<b>\$3,825 million</b>

In addition to the programmatic funds not directly related to highway construction. There are hundreds of earmarks included in the high priority projects section that are unrelated

to highway rehabilitation or construction. An RSC analysis of the projects listed in High Priority Projects Section Includes the following:

- At least 221 projects totaling over \$333 million for pedestrian improvements, bicycle paths, beautification and enhancement projects, and streetscape improvements.
- Funding for at least 7 museums totaling \$8.5 million.
- Funding for at least 80 walking, hiking, and biking trails totaling over \$132 million.
- Funding for another 40 various projects such as parking lots and restoration of buildings totaling over \$62 million.

**Change in the Scope of Minimum Guarantee (Section 1104):** The list of programs included in calculating whether a State is reaching their Minimum Guarantee has been modified to exclude “high priority projects” (earmarked funds), but to include “freight intermodal connectors, coordinated border infrastructure, safe routes to school, highway safety improvement, and high risk rural road safety improvement.” The effect of this language is that earmarks will no longer count towards determining whether a state is getting its minimum guarantee. Earmarks will be distributed on top of the guarantee.

In addition, funds expended under the new program for projects of regional and national significance (projects with a cost exceeding \$500 million or 75% of a state’s apportioned funds) are not counted towards the minimum guarantee. Funded at \$6.6 billion, this new program will provide some states with significant amounts of funding.

**Continued Explosion of Earmarks:** The bill earmarks 2,838 projects under the High Priority Projects program. Transportation Weekly provides the following statistics regarding these earmarks:

- Total Earmarked Amount: \$8.6 billion
- Amount Remaining to Be Earmarked: \$2.5 billion
- Average Project Size: \$3.03 million
- Largest Project: \$45 million (#1748, replacing three at grade interchanges on the Garden State Parkway with grade separations near Cape May, NJ – district of Rep. Frank LoBiondo, a member of the Transportation Committee)
- Smallest Project: \$8 thousand (#2550, extending a road two blocks around a high school in Crawford County, Georgia – district of Rep. Jim Marshall)
- Number of projects by price range:
  - Over \$40 million: 3
  - \$30 to \$40 million: 4
  - \$20 to \$30 million: 15
  - \$10 to \$20 million: 158
  - Under \$10 million: 2,658
- Top Five State Project Totals:
  - California: \$939 million
  - Texas: \$700 million

- New York: \$576 million
- Florida: \$443 million
- Illinois: \$437 million
- Bottom Five State Project Totals:
  - New Hampshire: \$16 million
  - Vermont: \$13 million
  - Wyoming: \$10 million
  - Delaware: \$8 million
  - South Dakota: \$0

The following projects may be of note (compiled by the RSC Staff):

- \$1.5 million for the Henry Ford Museum in Michigan
- \$250 K to construct the Crawford Museum of Transportation & Industry at Aviation High School, Cleveland, Ohio
- \$1 million for a Transportation and Heritage Museum in Townsend, Tennessee
- \$400 K for a Historic Warehouse for a Transportation Museum in Syracuse, NY
- \$1 million for a parking lot in San Diego, California
- \$60 K for the acquisition of a Historic Covered Bridge in Geauga, Ohio
- \$4 million for a parking facility in Oak Lawn, Illinois
- \$50 K for a feasibility study for platform mobile phone service in subway stations in New York City
- \$2.5 million for lighting, trail system, and visitor information for the Blue Ridge Music Center in Virginia
- \$2 million for a highspeed catamaran ferry in Massachusetts
- \$500 K to renovate the Wilcox County Arts Complex and to renovate a train cabooses as a welcome center in Georgia
- \$4 million for graffiti elimination in Queens and Brooklyn, New York
- \$250 K for a website for the Blue Ridge Travel Association in Virginia

**Expansion of Indian Gaming (Section 1209(e) and 1209(f)):** Provides for the ratification of agreements permitting Indian gaming and treats certain lands in Port Huron and in Romulus, Michigan as meeting the requirements of Federal Indian Gaming regulations. These provisions would effectively expand gaming to the specified cities.

**Continuation of a Minority Set-Aside (Section 1101(b)):** Sets aside 10% of funds under highway, transit and research programs for small businesses owned by “socially and economically disadvantaged individuals” (minorities and women).

**Potential for Tolls on Existing Roads (Sections 1209, 1603 & 1604):** Section 1209 permits up to 25 “congestion pilot projects” under which tolls could be imposed on existing roads with the funds used to carry out any program under the Highway title. Section 1603 permits the collection of tolls on 3 existing facilities on the Interstate Highway System to fund reconstruction and rehabilitation of the facility. Section 1604 permits the collection of tolls on 3 existing facilities on the Interstate Highway System to fund the constructing Interstate highways.

**Pilot Program on Mileage-Based Road User Charges (Section 1813):** Creates a pilot project to determine the feasibility of assessing a mileage-based road-user charge for the purpose of collecting revenues for the Highway Trust Fund.

**State Infrastructure Banks & Davis-Bacon (Section 1602):** Provides that federal rules, including Davis-Bacon prevailing wage requirements, will apply to projects funded out of state infrastructure banks even though the banks are funded with federal and state funds and even though the banks may be repaid with solely state-funds.

**Expands the Definition of the Appalachian Region:** Adds two counties in Kentucky, four counties in Ohio, four counties in Tennessee, and two counties in Virginia to the Appalachian Region, which receives special funding for projects.

**New or Expanded Mandates:**

- Prevents funds from being expended on highways unless temporary traffic control devices are installed in accordance with the Manual on Uniform Traffic Control Devices on highways where work is being done. (Section 1106)
- Mandates that states with urbanized area populations of over 200,000 individuals obligate a certain portion of their funds on certain congestion relief activities, specifically focusing on projects to be accomplished within one year and projects to be accompanied within three years. (Section 1201)
- Provides that an increasing amount of funds will be withheld from states unless they enact a statute providing that a blood alcohol content of 0.08 shall constitute driving while intoxicated. (Section 1406)

**Additional Incentives for States to Conform Their Laws to Federal Requirements:**

The bill continues the practice of providing specific grants to states on the basis of whether their legislature adopts laws that meet specifications contained in Federal law. These include:

- Grants to States with Laws Regarding Child Restraints (Section 2007): Creates a grant program for states with laws related to child restraints that meet certain standards.
- Grants to States with Program to Reduce Accidents Involving Motorcycles (Section 2009): Creates a grant program for states with programs to reduce accidents involving motorcycles provided the programs meet certain criteria.

**Other New Grant Programs of Note:**

- Grants to Train Commercial Motor Vehicle Operators (Section 4122): Provides \$6 million for this new grant program.
- Attract Young People to Careers in Transportation (Section 5205): Creates a new \$5.5 million program to attract young people to careers in transportation.